

**DEPARTMENT OF THE TREASURY
FEDERAL LAW ENFORCEMENT TRAINING CENTER
GLYNCO, GEORGIA 31524**

FLETC DIRECTIVE (FD)

NUMBER: 67-92.E

Subject:

DATE: 10/05/90

Sunset Review:

AIDS (HIV) POLICY

1. PURPOSE. To establish Center policy and guidelines on dealing with issues concerning Acquired Immune Deficiency syndrome (AIDS).

2. SCOPE. The provisions of this directive apply to all FLETC and Participating Organization staff, students, contractor personnel, and guests.

3. REFERENCES

a. Department of Treasury, Human Resources Directorate Manual, HRDM Bulletin No. 89-01, Chapter 792, "AIDS in the Workplace," dated August 18, 1989.

b. Office of Personnel Management, FPM Bulletin No. 792-42, "Acquired Immune Deficiency Syndrome (AIDS) in the Workplace," dated March 24, 1988.

c. Department of Justice, Office of Legal Counsel Opinion, "Application of Section 504 of the Rehabilitation Act to HIV-Infected Individuals."

d. The Surgeon General's Report on Acquired Immune Deficiency Syndrome.

e. Regulations governing the safeguarding of medical information, 42 C.F.R. Part 2.

4. DEFINITIONS.

a. Acquired Immune Deficiency Syndrome (AIDS). A disease wherein the infected individual's immune system is partially or completely damaged, making the individual susceptible to increasingly severe and life-threatening infections.

b. Human Immunodeficiency Virus (HIV). The current name for the virus which cause AIDS and AIDS-related Complex (ARC).

c. AIDS-related complex (ARC). This is a stage of HIV infection wherein the person's immune system is not yet fully impaired. It is signified by symptoms such as fever, weakness, weight loss, and night sweats.

d. HIV-infected Person. The HIV-Infected person is one who is carrying HIV and who may, or may not yet, exhibit any observable symptoms of that infection. Current medical knowledge suggests that most, if not all, persons infected with HIV will eventually develop AIDS.

e. Students. All persons enrolled in basic, agency pre-basic, follow-on basic, State and local, Center-advanced, agency-advanced training programs, seminars, conferences, or other training given by the Center.

f. Staff. All persons employed by or assigned to the Center, as well as personnel of the on-Center Participating Organizations, and employees of Center contractors who work at the Center.

g. Guests. Those persons performing business which directly relates to official Center or Government operations. These may include, but are not limited to: Members of the Center's Board of Directors; graduation speakers; and Federal agency representatives.

h. Visitors. Members of the Public, relatives of students, and other persons whose presence on the Center is authorized but not of an official nature.

5. BACKGROUND. AIDS is a virus which attacks and destroys the body's immune system and renders a person defenseless to fight against infections, malignancies, and other diseases which would not normally be life-threatening. There is presently neither a cure nor a vaccine against AIDS. Since the first cases were reported in 1981, thousands of Americans have suffered with the full symptoms of AIDS, with many thousands more having been exposed to the virus, and, therefore, having become susceptible to later developing the active AIDS disease.

At the present time, there are three proven ways a person can be infected with the HIV virus: intimate sexual contact with an infected person; invasive exposure to contaminated blood or blood products, such as sharing syringes with users of illegal drugs, accidental skin puncture by contaminated needles by medical, technical, and law enforcement personnel; or through a blood transfusion; and perinatal exposure, if the mother has been infected.

Current medical and scientific evidence indicates that AIDS is not communicable in the ordinary office environment. Medical evidence also suggests that a person

cannot contract AIDS from casual social contact such as shaking hands, crying, coughing, or sneezing. That evidence further shows that AIDS cannot be spread through using office machinery, toilet facilities, or sharing eating utensils or dishes. No medical reason has been found to avoid an HIV-infected person in ordinary social contact or to refuse to work with an HIV-infected person.

Treasury has issued a Human Resources Directorate Manual Bulletin on AIDS (Attachment 1). The Office of Personnel Management has issued guidelines on AIDS issues in the workplace (Attachment 2) and has encouraged other Federal agencies to do likewise. The Federal Law Enforcement Training Center has aspects of its training operations which differ from the normal workplace environment and pose unique questions which have been addressed in this directive. In addition to the above, various States (e.g., Georgia) have laws that prohibit the knowing exchange of bodily fluids by an HIV-infected person.

6. POLICY.

a. General. It is the policy of the Center to:

(1) Deal with actual cases of HIV-infected staff, students, and guests in a compassionate, supportive manner on a case-by-case basis. As long as an HIV-infected person is able to perform his or her required functions at the Center, and poses no threat to the health or safety of others while performing those required functions, that person will be allowed to perform them. Reasonable accommodation will be made for all HIV-infected persons, as long as, on a case-by-case basis, they pose no health, safety, or performance problems. Center staff, students, and guests will be expected to maintain professional relationships with HIV-infected persons with whom they come into contact as a result of performing their prescribed functions. Those who refuse to deal on a professional level with such persons may be subject to disciplinary action.

(2) Provide education about HIV to Center staff, students, and guests about its dangers, ways it can be transmitted, and ways to avoid risk of infection. This will be accomplished by distribution of informational brochures and periodic updates, showing of videos, and providing specific and focused education in instances of AIDS on the Center in order to allay fears of others and minimize obstructions to the normal functioning of the workplace.

b. Staff.

(1) An HIV-infected person cannot be refused employment or be terminated from employment on the basis of his or her condition. Infection with HIV has

been recognized as a "handicapping condition" under the Rehabilitation Act, and, therefore, the Center shall make reasonable accommodation for HIV-infected staff members, as long as there is no direct threat to the health and safety of other Center staff, students, guests, or visitors and they are able to perform their jobs. The Center will review the case of each HIV-infected staff member on an individual basis and make what reasonable accommodations it can to enable that staff member to continue in the employ of the Center, if such continued employment is feasible in view of the employee's condition. For example, an instructor in the practical exercise area who can no longer physically perform his or her required function due to complications of AIDS may be moved to classroom instruction instead.

Available relief for HIV-infected persons will be approved in conjunction with established personnel policies for all disabling conditions (FLETC Directives No. 66-10, Flexible Work Program; No. 66-30, Absence and Leave; No. 66-00, General Policies Concerning Employee Time and Attendance) and may include (among other options) sick leave, annual leave, or leave without pay to pursue medical care or to recuperate from the ill effects of his or her medical condition. The Center's Personnel Division will assist also in whatever way it can in determining health and other insurance benefits available to the HIV-infected staff member. In the case of contractor employees, the Center will consult with the contractor in determining reasonable accommodation.

(2) The Center will make every reasonable effort to educate each staff member on the dangers of AIDS, ways it can be transmitted, and ways to avoid risk of infection. This will be accomplished by furnishing informational material and periodic updates to the staff, showing films on AIDS to the staff, and, where necessary, providing group and individualized instruction and/or counseling concerning specific issues that might arise concerning AIDS in the workplace. HIV-infected staff will be treated by Center staff as any other person with a handicapping condition. Any Center staff member who refuses to work with an HIV-infected staff member will be counseled in an attempt to educate him or her about AIDS. If the staff member still refuses to work with the HIV-infected person, the staff member may be subject to disciplinary action.

(3) While the Center recognizes its responsibilities towards the HIV-infected staff member and to educate all Center staff concerning AIDS, the HIV-infected person also has responsibilities to other persons. Any HIV-infected staff member must conduct himself or herself in such a manner as to avoid transmission of the disease to any other person.

c. Students.

(1) An HIV-infected student cannot be excluded from attending training solely on the basis of that infection. The Center will make reasonable accommodations

for those HIV-infected students, as long as there is no direct threat to the health or safety of other Center staff, students, and guests, and they are able to perform their required duties. The Center will review the case of each HIV-infected student on an individual basis, and consult with the student's parent organization to make reasonable accommodation for that student to continue in his or her studies at the Center. For example, an HIV-infected student, due to his or her physical condition, may not be able to complete a required physical exercise. The Center will consult with that student's parent organization to determine if that student should continue in an audit status, participating in the classroom instruction only. Any relief will be approved in conjunction with established policies concerning students at the Center (FLETC Directives No. 10-09.A, Student Evaluation Policy and Procedures for Basic Training Programs; No. 67-92, Health Services; No. 67-35.A, Standards of Conduct; No. 70-10.C, Medical Screening of Students at the Federal Law Enforcement Training Center; and No. 91-01.E, Practical Exercise Performance Requirements) and in consultation with the student's organization.

(2) The Center will make every reasonable effort to educate each student on the dangers of AIDS, ways it can be transmitted, and ways to avoid risk of infection. This will be accomplished by furnishing informational material and periodic updates to students, showing informational films, and, where necessary, providing group and individualized instruction and/or counseling concerning specific issues that might arise concerning AIDS. If any student refuses to work with HIV-infected staff, students, or guests, that student will be counseled in an attempt to educate that student about HIV-infection. If the student still refuses to work with the HIV-infected person, the student may be subject to removal from training.

(3) While the Center recognizes its responsibilities towards HIV-infected students and to educate all students concerning AIDS, it also believes that the HIV-infected student has responsibilities. It is Center policy that any HIV-infected must conduct himself or herself in such a manner as to avoid transmission of the virus to any other staff member, student, or guest.

d. Guests.

(1) The Center will make reasonable accommodation for HIV-infected guests, as long as there is no direct threat to the health the safety of other Center staff, students, and guests, and they are able to perform their prescribed functions. The Center will review the case of each HIV-infected guest on an individual basis to make what reasonable accommodations that it can to enable the HIV-infected guest to continue in his or her prescribed functions. Any relief granted will be approved in conjunction with established policies concerning guests at the Center.

(2) While the Center recognizes its responsibilities toward the HIV-infected guest, the HIV-infected guest has corresponding responsibilities. The Center's policy is that any HIV-infected guest must conduct himself or herself in such a manner as to avoid transmission of the virus to any other staff member, student, or guest.

7. CONFIDENTIALITY OF MEDICAL INFORMATION. Disclosure of medical information in Center records on HIV-infected staff, students, or guests is protected by the Privacy Act, 5 U.S.C. section 552a, and by regulations governing the safeguarding of medical information, 42 C.F.R. Part 2. Disclosure of such information is authorized only to those who have a need for it in the performance of their duties or upon written release signed by the affected individual. For example, Center managerial officials with supervisory authority over a function in which an infected person works or is taught could have a need to know in order to ensure that proper procedures and precautions are being employed and to ensure that the infected person's rights are observed, as do FLETC medical personnel. See FLETC Directives No. 67-92, Health Services, and No. 70-10.C, Medical Screening of Students at the Federal Law Enforcement Training Center. Administrative and other sanctions applicable to those who, without an official reason to do so, disclose or discuss information from a Privacy Act record without the consent of person to whom the record pertains.

8. EMPLOYEE ASSISTANCE PROGRAM. Individuals who have concerns about AIDS and HIV infection have available to them several community resources. The FLETC Employee Assistance Program provides counselors well versed in the care and assistance needed to deal with employees and students affected by all aspects of AIDS. The local Department of Human Resources or Public Health Service agency also has epidemiologist knowledgeable about AIDS, who will also provide information and assistance. Finally, the Personnel Division has references on outside resources that may be helpful.

9. RESPONSIBILITIES.

a. The Center. The Center's responsibilities are to:

(1) Issue policy and guidelines for managing AIDS in the workplace;

(2) Review new scientific and medical information on AIDS as it becomes available and to disseminate such information to Center staff, students, and, where appropriate, guests; and

(3) Establish procedures for providing managers who supervise employees with life-threatening illnesses with guidelines.

b. Supervisor. It is the responsibility of the supervisor to:

(1) Provide guidance and assistance in seeking out proper support for HIV-infected staff, students, and guests;

(2) Assure the confidentiality and privacy of medical information about HIV-infected staff, students, and guests; and

(3) Maintain records consistent with law, rule, and regulation.

c. Staff, students, and Guests. It is the responsibility of each staff member, student, and guest to cooperate with both the educational efforts of the Center and the accommodation of HIV-infected staff members, students, and guests.

d. HIV-infected Persons. Any person infected with HIV must comport himself or herself in a responsible manner so as to prevent further spread of the virus.

9. OFFICE OF PRIMARY INTEREST. Office of the Director.

Charles F. Rinkevich
Director

Attachments (2) available from the Personnel Division